

13736

No. _____

Supreme Court of Illinois

Burr et al

vs.

Hurd et al

71641  7

Hard hats
vs.

Bird hats.

$6\frac{1}{2}$

$6\frac{1}{2}$

137 36

1859

We now all men by these presents that We,
Edward B. Heard, Joseph Priam,
Edmund J. Beebe and George C. Buckle-
Jonathan Priam and Benjamin Saunders
are held and firmly bound unto Melancthon
Burr, Charles Griffiths and Giles White
in the penal sum of Twenty five hundred
dollars. - Witness our hands and seals
this 16th day of July A.D. 1853.

The Condition of the above
Obligation is such, that whereas the said
Melancthon Burr, Charles Griffiths and
Giles White, did on the 5th day of July
A.D. 1853 recover a judgment against
the above bounden Edward B. Heard
Joseph Priam, Edmund J. Beebe and
George C. Buckle in the Cook County
Court of Common Pleas, in an action
of Assumpsit, for Eleven Hundred twenty
fine Dollars and sixty nine cents, and costs
of suit, in which judgment & proceedings
the said Heard, Joseph Priam, Beebe
and Buckle complain that there is an
error in substance therein, and to be
relieved therefrom, hath applied for
and obtained a writ of Error to remove
the same to the Supreme Court of the
State of Illinois; - Returnable to the
said Supreme Court, to be holden at
Ottawa, in the third grand division of
said State on the Second Monday of
June next. Now, if the said
Edward B. Heard, Joseph Priam, Edmund
J. Beebe and George C. Buckle -

shall duly prosecute their said writ
of Error. and pay to the said appellants
Curr. Charles Griffith. and Giles White,
such judgment, costs and interest and
damages as shall be awarded by the
said Supreme Court, in case the
said judgment shall be affirmed,
then this obligation to be void; - Else,
to remain in full force & effect

Edward B Hard Seal

W. Peirce Seal

Edmund D Peck Seal
by George C Ruckel his Attorney in fact
George C Ruckel Seal

John Peirce Seal

Bonnie Sanders Seal

State of Illinois }
Cook County } ss.

Supreme Court -

Edward B. Wood. Joseph Priam
Edmund J. Beebe and George C. Nuckle
- a d s -

Nathan Burr. Charles Griffith and Giles White

Jonathan Priam and Benjamin
Saunders. Residents in the said County of
Cook - Security in this Cause for the
above named defendants, being duly sworn,
severally, depose and say: -

And first Jonathan
Priam for himself says, that he resides
in said Cook County & that he is a Free
holder in said County - that he is worth
the sum of Two Thousand Dollars
over & above what will pay all his debts:
And this deponent, Benjamin
Saunders for himself, says that he is a Resident and
Free holder in said County & that he is
worth Two Thousand Dollars over and above
what will pay all his debts. -

I hereby certify that the said
Jonathan Priam appeared before me a Notary Public in & for the County of Cook
and State of Illinois, subscribed to and swore that the
contents of the above affidavit are true.

James Perrin
Benjamin Saunders

Witness my hand and notarial Seal this 16th day of July 1855

J. H. Drunpax, a Justice of the Peace in County of Cook, certify hereby
that Benjamin Saunders who is personally known to me, appeared
before me and has sworn that the contents of the above instrument
is the truth, and has signed it

Attest to 16th day of July 1855

J. H. Drunpax
Justice of the Peace

(Seal)

STATE OF ILLINOIS,

COOK COUNTY,

ss.

said County, do hereby certify that
is subscribed to the
was, at the time of
for said County, duly commissioned, sworn and authorized to take the same; and full faith and credit is due to all
his official acts.

I, CHARLES B. FARWELL, Clerk of the County Court in and for

annexed

whose name

the same, an acting Justice of the Peace in and

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the
official seal of said County Court, this
day of

A. D. 185

Clerk of the County Court.

124 39
Hard et al
6^{1/2} vs 1889
Burr et al

Supds. Bard & affs.

Filed July 19, 1885
A. Keland Clk.

State of Illinois - Supreme court 3rd Grand Division
April term A.D. 1859.

Edward B. Hurd
Joseph Periam
George C. Ruckle
& Edmund D. Beebe

vs

Melancthon Burr
Charles Griffith
Isaac White

Error to Cook county
court of common pleas.

And now come the said
defendants in error by Beebe with
& Wallace their attorneys and
by leave of the court, say that the
said judgment of the Cook county
court of common pleas ought not,
by reason of the errors above
assigned, to be reversed. because
they say that since the last continuance
of this cause in this court ~~to wit~~
on the 20th day of April A.D. 1859,
the said plaintiff in error Edmund
D. Beebe, in consideration of the sum of one dollar paid by said defendants
executed and delivered
to these ~~these~~ ^{said} defendants a release of
all errors & mistakes made or committed
in said cause in the Cook county
court of common pleas - which
said release is as follows -

Edward B Hunt
Joseph Periam
George C Ruckle
Edmund O'Brien

vs

Melancthon Burr
Charles Griffith
Giles White

Supreme Court
State of Illinois

Error to break County
Court of Common Pleas

In consideration of the sum of
One Dollars to me in hand paid by the
above named Melancthon Burr, Charles Griffith
& Giles White I do hereby release and discharge
to them any and all errors and mistakes made or
committed in said cause in the Cook County Court of
Common Pleas. I do not hereby intend to admit
that personal service or any service has ever
been made on me in said cause. But I execute
this release and discharge the better to enable the
above named Burr & others to satisfy the judgment
obtained by them out of the Security held by the
Court for that purpose - as I desire that
judgment paid out of that fund -

Witness my hand and Seal this twentieth
day of April A.D. 1859.

In presence of
J. E. O'Donnell

Edmund O'Brien

Abstract of Record

This was an action of Assumpsit commenced in the Cook County Court of Common Pleas - at the July Term thereof A.D. 1833; before the Hon. John M. Wilson - by Melancthon Burr et als, against Edward B. Mound et als.

Precept & Security Cost filed on the 20th day of June 1833 -
for Cost Damages \$2000.—

Summons issued on the 20th June 1833 - directed to the Sheriff of Cook County commanding him to summon Edward B. Mound, Joseph Periam, George C. Rexkel & Edmund C. Beebe - to appear &c —

The Sheriff's return of summons
was in the words & figures follow-
ing—

"Served by reading to the Within
" named Edward, B. Heard, Joseph Periam.
" George C. Reckel this 21. day of June
" 1855. Edward B. Beebe not found—

" James Andrew Sheriff
" By Ira Snow Deputy

Declaration — Declaration filed on the 20th day of
June 1855. and was in substance as
follows—

Melancthon Burr —
Charles Griffith & Giles White
pastors &c. complain of Edward
B. Heard. Joseph Periam and
Edmund B. Beebe pastors &c
in a plea of trespass on the case
upon promises — For that Whereas
said defendants on the 21st day of March
1855. made their certain promis-
-sory note in writing — Whereby said
defendants promised & became liable to
pay, one day after date, to plaintiffs
the sum of \$171.23 —

Then follows

The Common Counts Claiming
\$2000. & breach —

On the declaration was the following endorsement —

"Take Notice that a declaration of which the within is a copy, has been duly filed in the Office of the Clerk of the Cook County Court, and that upon the filing thereof a Rule was entered in the above entitled Cause, in the Common Rule Book in said Office requiring you to plead to said declaration within ten days after the service thereof — and notice of said rule or that judgment by default will be entered against you for want of such plea — Dated June 20th 1855 —
Yours — Frank & Winston Attys for plffs

Affidavit of Francis M. Young — he says that on the 21st day of June 1855. he served a declaration & Notice of Rule to plead — of which the within and annexed are true copies, and also copy of the Rule itself entered herein

upon Joseph Periam by delivering
the same to said Periam personally—

Pled June 22nd 1853—

Defts filed plea of Non Assumpsit to
the whole declaration—

Affidavit of Merits is in the words and
figures following— filed 22nd June 1853—

State of Illinois }
Cook County ss. }

" I Benjⁿ E. Gallup depose
" and say, that I am the attorney of
" the defendants in the above suit— and
" that I am advised and believe that
" said defts have a good defence to
" said suit, or a portion of the same
" upon the merits—

" Subscribed and sworn to }
" before me this 22nd day of } Benjⁿ E. Gallup
" June 1853— }

W. Kimble Clerk }

July, ^{vacation} Term — The Attys for plffs move the Court to
5th July — Strike the defts plea from the files
for want of a sufficient Affidavit of
^{motion, sustained,} Merits — and thereupon defendants
are three times called & c but come
not — but make default — which
is ordered to be taken, and the Court
assesses plaintiffs damages at
\$1125.69. — And it is Ordered by
the Court that the plffs have and
recover of defts their damages of
\$1125.69. and Costs & Charges — "and
have execution".

State of Ills Supreme Court June Term 1833
 Burr et al
 vs
 Heard et al

} Error to C.C.C. Common Pleas
 } And now comes said plaintiff

in error and says that there is manifest error in the proceedings, and judgment in the Court below & especially - that The Court Erred -

- 1st In rendering judgment vs all defendants when process was served only on one -
- 2nd In rendering judgment at a vacation term without the notice required by law - (see
- 3rd The court erred in striking the plea of defendants from the files - the affidavit of merits being good
- 4th - The court erred in rendering judgment vs defendants in manner as the same was done
 De Key West & T. ~~Officer~~ atty for
 plff in error -

detached from
 records for printing
 1833

State of Ills Supreme Court June Term 1833
 Burr et al
 vs
 Heard et al

6/2

Printed by Jameson & Morse, 14 La Salle street.

SUPREME COURT.

APRIL TERM, A. D. 1859.

EDWARD B. HURD et al.

vs.

MELANCTHON BURR et al.

The defendants in error respectfully submit :

1st. That the affidavit filed by defendants in the court below was insufficient and defective, and that by reason thereof, plaintiffs were entitled to judgment.

(A) The affidavit should have been made by defendants, or one of them : an attorney, as such, is not authorized to make the affidavit required by law.

Practice Act of 1853 relating to Cook County Court of Common Pleas.

Sections (33 and 14).

Bancroft v. Eastman, 3d Gil., 259.

Roosevelt v. Dale, 2d Cowen, 581.

Cunningham v Goelet, 4 Denio, 71.

(B) The statement in an affidavit of this nature that the affiant is *informed* and *believes* that the defendant has a substantial defense on the merits is not sufficient.

Briggs v. Briggs, 3 Johnson, 258.

Brown v. Corvell, 3 Doug., 452.

Adamson v. Wood, 5 Black., 448.

(C) The affidavit is defective, because in the alternative, and nothing is therein stated absolutely, and no indictment for perjury could be founded upon it.

Castle et al. v. Judson et al., 17 Ill., 383.

4 Black. Com., 137.

3 Greenleaf's Evidence, § 188.

Adamson v. Wood, 5 Black., 448.

2d. That although process was not served upon all the defendants, yet, as they *appeared* and *pleaded*, judgment could be rendered against them, notwithstanding, the court, on motion of the plaintiff, struck the plea from the files.

(A) The plea was not the appearance of the defendants. They must have been in court *before* they could file the plea. They *appeared* and *then* pleaded, and striking the plea from the files could not operate to strike their appearance from the docket. In order to file and defend their plea, they must have come under the jurisdiction of the court, and because they failed to make good the defense interposed, they cannot say they never interposed any. They have had the advantages of presenting a defense, and they cannot say that because their defense was stricken out as frivolous, that therefore, they themselves are not in court.

When a party appears and files a plea, he submits himself to the jurisdiction of the court, and is as completely subject to that jurisdiction as though he had been served with process.

The process is a means by which the law has provided that a plaintiff may coerce the appearance of a defendant. If a defendant comes without it, the plaintiff does not need it: and when a defendant does come into court, and the fact appears of record that he has been notified of the pending case, and answered the plaintiff's demand in any other way than by a plea to the jurisdiction of the court, he is subject to that jurisdiction for the purposes of that case, whether his answer made was good, bad or indifferent.

(B) It may be questioned whether or not the court was authorized under the laws of this State to strike the plea from the files.

The 3d and 14th sections of the act, relating to practice in the circuit and common pleas courts of Cook county, require that wherever a defendant in an action founded upon contract shall file a plea, he shall at the same time file an affidavit, setting forth that he has a good defense to the action on the merits. These sections also provide that in case no sufficient affidavit is filed as required by law, *that the plaintiff shall be entitled to judgment.*

The plea of defendants, *as a plea*, may be perfectly good; that it is not accompanied by an affidavit is no sufficient reason for striking it from the files as *frivolous*. But the plaintiff is entitled to his judgment, for the reason that the law provides, *he shall have it if the affidavit is not filed.* The failure to file the affidavit does not affect the plea, otherwise

than that defendant shall not be allowed to try the issue joined. Judgment goes against him by default, and his default is in *not filing his affidavit*, not in failing to plead. The judgment is not a judgment of *nil dicit*.

If, then, the court should have stricken the plea from the files without authority so to do, the defendants were *in court*, and although the court below erred in so ordering the plea to be stricken from the files, this court will not reverse on that ground, for the reason that plaintiffs in error cannot complain of the erroneous decision as injurious to them.

BECKWITH MERRICK & CASSIN,

Attorneys for Defendants in Error.

No 6 1/2

Supreme Court

Edward B. Hunt et al

^{vs}
Melancthon Burr et al

6 1/2

Printed by Jameson & Morse, 14 La Salle street.

SUPREME COURT.

APRIL TERM, A. D. 1859.

EDWARD B. HURD et al. }

vs. }

MELANCTHON BURR et al. }

The defendants in error respectfully submit :

1st. That the affidavit filed by defendants in the court below was insufficient and defective, and that by reason thereof, plaintiffs were entitled to judgment.

(A) The affidavit should have been made by defendants, or one of them : an attorney, as such, is not authorized to make the affidavit required by law.

Practice Act of 1853 relating to Cook County Court of Common Pleas.

Sections (33 and 14).

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When a party appears and files a plea, he submits himself to the jurisdiction of the court, and is as completely subject to that jurisdiction as though he had been served with process.

The process is a means by which the law has provided that a plaintiff may coerce the appearance of a defendant. If a defendant comes without it, the plaintiff does not need it: and when a defendant does come into court, and the fact appears of record that he has been notified of the pending case, and answered the plaintiff's demand in any other way than by a plea to the jurisdiction of the court, he is subject to that jurisdiction for the purposes of that case, whether his answer made was good, bad or indifferent.

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The plea of defendants, *as a plea*, may be perfectly good; that it is not accompanied by an affidavit is no sufficient reason for striking it from the files as *frivolous*. But the plaintiff is entitled to his judgment, for the reason that the law provides, *he shall have it if the affidavit is not filed.* The failure to file the affidavit does not affect the plea, otherwise

than that defendant shall not be allowed to try the issue joined. Judgment goes against him by default, and his default is in *not filing his affidavit*, not in failing to plead. The judgment is not a judgment of *nil dicit*.

If, then, the court should have stricken the plea from the files without authority so to do, the defendants were *in court*, and although the court below erred in so ordering the plea to be stricken from the files, this court will not reverse on that ground, for the reason that plaintiffs in error cannot complain of the erroneous decision as injurious to them.

BECKWITH MERRICK & CASSIN,

Attorneys for Defendants in Error.

No 6 1/2

Supreme Court

Edward R. Hunt et al

vs
Melancthon Burr et al

1)
State of Illinois }
County of Cook } S. S.

Pleas before the Honorable John M. Wilson
Judge of the Cook County Court of Common Pleas within
and for said County of Cook and State of Illinois at a
Vacation Term of said Cook County Court of Common Pleas,
begun and holden at the Court House in the City of Chicago,
in said County and State on the first Monday being the
second day of July in the year of our Lord one thousand
eight hundred and fifty five and of the Independence
of the United States, the Seventy ninth.

Present the Honorable John M. Wilson .. Judge
Attest: James Andrew. Sheriff
Walter Kimball. Clerk

Be it Remembered that heretofore to wit on the
twentieth day of June A. D. eighteen hundred and fifty five
Melancthon Burr, Charles Griffith and Giles White, Plaintiffs
by Trunk & Winston their Attorneys, filed in the Office of the
Clerk of the Cook County Court of Common Pleas, their
precipe for summons, against Edward B. Hurd, Joseph
Periam, George C. Ruckel and Edmund D. Beebe, defendants
together with security for costs, which said recipie & bond for
costs, are in words and figures as follows, to wit.

Melancthon Burr, Charles Griffith	Cook Co Court of Common Pleas.
and Giles White	
v	
Edward B. Hurd, Joseph Periam	Assumpsit
	Doe \$2000.

2.

George C. Ruckel and
Edmund D. Beebe .. }

The clerk will please issue summons
in above entitled cause, and make the same returnable
to the next ensuing term.

Very truly Yours

Trink & Winston

Atty's.

Melancthon Burr, Charles
Griffith and Miles White }

Edward B. Hurd, Joseph Periam
George C. Ruckel and Edmund
D. Beebe .. }

Cook County Court of
Common Pleas.

We do hereby enter ourselves
security for costs in this cause, and acknowledge ourselves
bound to pay or cause to be paid, all costs which may accrue
in this action, either to the opposite party or to any of the
Officers of this Court, in pursuance of the laws of this
State.

Dated this 20th day of June 1855
A. D. 1855 .. } Trink & Winston.

And thereupon summons issued out of the Office of the
Clerk of said Court in words and figures as follows to wit:
State of Illinois v
County of Cook } S. S.

The People of the State of Illinois to the
Sheriff of said County. Greeting.

We command you that you summon Edward B.
Hurd, Joseph Periam, George C. Ruckel and Edmund D.
Beebe, if they shall be found in your County, personally to be
and appear before the Cook County Court of Common Pleas

of said County on the first day of the next Term thereof, to be holden at the Court House in the City of Chicago in said County on the first Monday of July next to answer unto Melancthon Burr, Charles Griffith, and Giles White in a Plea of Trespass on the case on promises to the damage of the said Plaintiffs as they pay in the sum of Two thousand dollars.

And have you then and there this Writ, with an endorsement thereon, in what manner you shall have executed the same.

Witness Walter Kimball, Clerk of our said Court, and the Seal thereof, at Chicago, in said County, this 20th day of June A. D. 1855
Walter Kimball. Clerk.

Seal.
Endorsed as follows

"Served by reading to the within named Edward B. Hurd, Joseph Periam, George E. Ruckel this 21. day of June 1855. Edward D. Beebe not found."

James Andrew - Sheriff
By Ira Snow. Deputy."

And also on the said twentieth day of June in the year aforesaid the said Plaintiffs, by their said Attorneys, filed in the Office of the Clerk of said Court, their declaration in said cause, in words and figures as follows, to wit:

State of Illinois, ss. Cook County Court of Common Pleas
Cook County } Of the July Term in the year of
our Lord one thousand eight hundred
and fifty five.

Melancthon Burr, Charles Griffith and Giles White who are partners under the name and style of Burr, Griffith and White, Plaintiffs in this suit by Sprink & Weston their Attorneys, complain of Edward B. Hurd, Joseph Periam,

Edmund D. Beebe and George L. Ruckel who are partners under the firm name and style of Ruckel, Beebe & Co; defendants, who were summoned &c in a plea of Trespass on the case on promises. For that whereas the said Defendant herebefore to wit on the twenty first day of March in the year of our Lord one thousand eight hundred and fifty five at Birmingham, to wit, at Chicago, in said County of Cook made their certain promissory Note and then and there ~~in~~ delivered the same to the said Plaintiffs, in and by which said Note, said defendant by the name, style and description of Ruckel, Beebe & Co; promised to pay to the Order of the said Plaintiffs, one day after the date thereof - one hundred and twenty one dollars and twenty three cents (\$171 $\frac{23}{100}$) at the office of said Plaintiffs in New York for value received By means whereof and by force of the Statute in such case made and provided the said defendants became liable to pay said Plaintiffs said sum of money mentioned in said Note and being so liable, in consideration thereof, then and there undertook and promised to pay the same to the said Plaintiffs according to the tenor and effect true intent and meaning of said Note to wit at the place aforesaid. And whereas also the said Defendants afterwards to wit on the first day of April in the year of our Lord one thousand eight hundred and fifty five, to wit, at Chicago, in said County became and were indebted unto the Plaintiffs in a large sum of money, to wit. Two thousand dollars for money before that time lent and advanced to and paid laid out and expended for said defendants by said Plaintiffs at said defendants request, and for money before that time had and received by said defendants to and for the use of said Plaintiffs; and also in the like sum for goods wares and merchandize before that time sold and delivered by said Plaintiffs to said defendants at like special instance and request, and also in the like sum.

for the labor care and diligence of said Plaintiffs before that time done and performed by said Plaintiffs for said Defendants, and at the like instance and request of said Defendants, and being so indebted said defendants in consideration thereof, then and there undertook and promised to pay said Plaintiffs said last mentioned sum of money, when thereunto afterwards requested.

Yet the said defendants not regarding their said promises and undertakings but contriving &c, altho' often requested so to do, have not paid said Plaintiffs either of said sums of money above mentioned, or any part thereof, but so to do have hitherto wholly neglected and refused, and still do neglect and refuse To the damage of said Plaintiffs of Two thousand dollars and therefore they bring this suit.

Trink & Winston

Attys for Plaintiffs.

On which said Declaration were the following indorsements.

"Take Notice that a Declaration, of which the within is a copy, has been duly filed in the Office of the Clerk of the Cook County Court, and that upon the filing thereof a Rule was entered in the above entitled cause in the Common rule Book in said Office requiring you to plead to said declaration, within ten days after the service of a copy thereof, and notice of said rule, or that judgment by default will be entered against you for want of such Plead - Dated June 20th 1855."

"Yours. Trink & Winston - Attys for Plffs"

"State of Illinois
Cook County" } S.S.

"Francis H. Young being duly sworn saith that on the twenty first day of June 1855 he served a declaration and Notice of rule to plead, of which the within and annexed are true copies, and also copy of the Rule

itself entered herein upon Joseph Periam by delivering the same to said Joseph Periam personally.

Subscribed and sworn to before
me this Twenty first day of } J. H. Young.
June A. D. 1855. }
Walter Kimball. Clerk

And thereafter to wit on the twenty second day of June
in the year aforesaid, the said defendants, by Benjamin
E. Gallup their Attorney, filed in the Office of the Clerk
of said Court, their Plea & Affidavit of Merits in words
and figures as follows to wit.

Cook County Court of Common Pleas.
July Term 1855.

Edward B. Hurd & also
at
Melancthon Burr & also

And the said Edward B. Hurd
Joseph Periam, Edmund D. Beebe and Geo. C. Ruckler
by Ben^g. E. Gallup their Attorney, come & defend the
wrong and injury when &c. and faith that they did not
undertake or promise in manner and form as the said
Melancthon Burr, Charles Griffith and Giles White
hath above thereof complained against them, and of
this they put themselves upon the Country &c.

Ben^g. E. Gallup. Defts Atty.

State of Illinois }
Cook County ss. }

I Ben^g. E. Gallup depose and say that
I am the Attorney of the defendants in the above suit
and that I am advised and believe that said defts
have a good defence to said suit, or a portion of

the same upon the merits.

Subscribed & sworn to }
before me this 23^d day of } Benjⁿ. B. Gallup.
June 1855 }

W. Kimball. Clerk

And afterwards to wit on the fifth day of July being one of the days of the July Vacation Term of said Court Eighteen hundred and fifty five, the following proceedings were had in said cause, and entered of Record in said Court, to wit.

Melancthon Burr, Charles
Griffith and Giles White . . }

-v-

Edward B. Hurd, Joseph Pream
George C. Ruskel & Edmund D. Beebe }

Ap^t

And now at this day come the said Plaintiffs by Frank & Winston their Attorneys and the said Defendants by Benjamin B. Gallup their Attorney also come, and on motion of said Plaintiffs Attorneys it is ordered that the plea of the said defendants be stricken from the files of this cause for the reason that the same is not supported by a sufficient Affidavit of Merits - And thereupon the said Defendants being three times solemnly severally called in open Court, come not, nor does any person for them or either of them but make default which is ordered to be taken and entered of record Wherefore the said Plaintiffs ought to have and recover of the said defendants their damages herein sustained by occasion of the premises and the Court after hearing the testimony adduced by said Plaintiffs being now fully advised in the premises awards said Plaintiffs damages to the sum of Eleven hundred and twenty five dollars

81
and sixty nine cents.

Therefore it is considered that the said Plaintiff do have and recover of the said Defendants their damages of Eleven hundred and twenty five dollars and sixty nine cents in form aforesaid by the Court here affirmed and also their costs and charges by them about their suit in this behalf expended, and have execution therefor.

State of Illinois

County of Cook S. S.

I Walter Kimball Clerk of the Cook County Court of Common Pleas within and for said County and State Do hereby Certify that the foregoing is a true and correct copy of the Precept, Bond for Cost, Summons & return, Declaration, Notice of Rule to plead & Affidavit of service thereof, and Plea and Affidavit of Merits, and also of the Order entered of Record in said Court, now on file in my Office in the above mentioned cause.



In testimony whereof I have hereunto subscribed my name and affixed the Seal of said Court at Chicago in said County this tenth day of July A. D. 1855.

Walter Kimball Clerk

12 ~~734~~ 39

Melancthon Burr et al

ats.

Edward B. Hurd et al

copy
Recd

Filed July 14. 1855.
L. Melan Clerk.

Mo. Sup. Ct. do
Attest July 14th 55

Trans 62^{re} Cost & Inc 35
63^{re}